

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 23, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, August 23, 2001 at 1:30 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Bill Johnson; Kerry Coulter; Bud Hentzen; Don Anderson; Ron Marnell; Ray Warren; John W. McKay, Jr.; David Wells; Harold Warner; and Dorman Blake. Frank Garofalo; James Barfield; Elizabeth Bishop; were not present. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner and Valerie Robinson, Recording Secretary.

1. **Approval of MAPC meeting minutes for July 19, 2001.**

MOTION: That the minutes for July 19, 2001 be approved, as amended.

MCKAY moved, **JOHNSON** seconded the motion, and it carried unanimously (9-0).

HENTZEN wanted page 3 to be changed to reflect correct spelling of Tim Witsman's name.

Kerry Coulter in at 1:35 and David Wells in at 1:40.

2-1. SUB2000-00055 – Revised Final Plat of MAPLE SHADE ADDITION, located north of Pawnee, on the east side of Webb Road.

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Prior to this plat being scheduled for City Council review, annexation of the site will need to be completed.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a zone change.
- C. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the City for service through the Four Mile Creek sanitary sewer system. County Engineering requests a sanitary sewer layout.
- D. The applicant shall guarantee the extension of City water to serve this site.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. City Engineering needs to comment on the need for any additional guarantees or easements. An off-site drainage easement is requested unless this Addition is platted concurrently with Brentwood South Addition to the east. A drainage guarantee is required.
- G. City Engineering needs to comment on the status of the applicant's drainage plan. On-site detention will be needed on the final drainage plan.
- H. The plat's text shall include ownership and maintenance responsibilities of the reserves.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and

maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- K. For the Reserves indicated as platted for swimming pools, a site plan shall be submitted with the final plat tracing, for review and approval by the Director of Planning. The site plan shall provide the information indicated in the Subdivision Regulations. Otherwise, a conditional use and public hearing will be needed in the future.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- N. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- O. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on the south side of Clark.
- P. The paving guarantee shall include the installation of a temporary turnaround at the terminus of Clark at the plat's east line unless the abutting street to the east has been constructed. The temporary turnaround shall be established by separate instrument.
- Q. City Fire Department should comment on the plat's street names. Stoneybrook should be revised to "Clark".

The street name has been revised as requested.

- R. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #83) and its special conditions for development on this property.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.

- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

STRAHL, MAPD staff, reviewed staff report comments.

MARK SAVOY agent indicated agreement with staff comments.

MOTION: That item 2-2 be approved.

MCKAY moved, **WARREN** seconded the motion, and it carried unanimously (10-0)

2-2. SUB2001-00076 – One-Step Final Plat of SHAMROCK TIRE ADDITION, located north of 31st Street South, on the west side of Broadway.

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage concept. The drainage concept is approved.
- D. Traffic Engineering needs to comment on the access controls. The plat proposes three access openings along Broadway. "CAC" (which refers to no openings) needs to be deleted and replaced by "access control". Traffic Engineering has approved two 40-ft openings to be located near the north and south property lines.
- E. The street name shall be corrected to reference "Broadway".
- F. The distance from a tie point to the property shall be denoted.
- G. The scale needs to be revised to reference 1:50 scale.
- H. The centerline of Broadway needs to be depicted by "CL".
- I. The bold line needs to be deleted between parcels 2 and 3.
- J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- K. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is only in the party now shown on the final plat.
- L. City Engineering has requested a 10-ft utility easement along the north, south and west property lines.
- M. Due to the proximity of the sanitary sewer line to the building, City Water and Sewer Department has requested a Hold Harmless Agreement. The sewer line located under the building will need to be privately maintained.
- N. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this

property is available in the City Engineers' office.

- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell has requested additional easements.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

STRAHL, MAPD staff, reviewed staff comments.

APPLICANT was not in attendance.

MOTION: That item 2-2 be approved.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0)

2-3. SUB2001-00078 – One-Step Final Plat of COLLINS FIRST ADDITION, located south of Kellogg, west of Maize Road.

- A. City water is available to serve the site. A petition for the extension of sanitary sewer is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. A minimum pad needs to be established for Lot 2.
- D. The Applicant has platted a 20-ft building setback along Lark Lane for Lot 1, and a 15-ft building setback along Carr Avenue for Lot 2, both of which represent an adjustment of the Zoning Code standard of 25 feet for the SF-5,

Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. If the modification is approved, MAPD recommends a restrictive covenant be filed which imposes a 20-ft setback for garages on Lot 2.

- E. The road right-of-way width on Lark Lane needs to be denoted.
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell has requested additional easements.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

STRAHL, MAPD staff, reviewed staff comments.

SAVOY, agent, indicated agreement with staff comments.

MOTION: That item 2-3 be approved. .

WARREN moved, **MCKAY** seconded the motion, and it carried unanimously (10-0)

2-4. SUB2001-00079 – One-Step Final Plat of VILLA CHRISTI SECOND ADDITION, located on the south side of Second Street, east of Sheridan.

- A. Municipal services are available to serve the site.

- B. This plat will be subject to approval of the associated zone change and any related conditions of such a zone change.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- E. The plat needs to be revised to reflect the access controls which were approved per the PUD. One access opening per lot is permitted.
- F. In accordance with the Sidewalk Ordinance, as a multi-family/office subdivision abutting a non-arterial street, a sidewalk shall be constructed along Second Street. A Sidewalk Certificate shall be provided assuring sidewalks will be built concurrently with development.
- G. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD (referenced as P.U.D. #2001-00003) and its special conditions for development on this property.
- H. The note on the face of the plat shall be corrected to indicate that this Addition is subject to the conditions of the Villa Christi Planned Unit Development PUD 2001-00003.
- I. The surveyor's certification shall be corrected to reference the Villa Christi 2nd Addition.
- J. The setbacks for Lot 2 should be revised to conform with the approved setbacks per the PUD (35 feet side and rear yard).
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional

utility easements to be platted on this property.

- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That item 2-4 be approved.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (10-0)

2-5. SUB2001-00083 – One-Step Final Plat of WIREMEN ACRES ADDITION, located north of K-96, on the west side of Hillside.

- A. Municipal water is available to serve the site. A guarantee is required for extension of sanitary sewer. An off-site easement for sewer is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. Traffic Engineering needs to comment on the access controls. The plat proposes two access openings along Hillside. Two access openings are permitted. An access easement centered on the south property line shall be established by separate instrument. The south drive shall be closed upon the construction of a driveway within the access easement along the south property line.
- E. The lot shall be designated as a "Lot" and not a "Parcel".
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The Applicant is advised that if platted, the building setbacks may be reduced to 20-ft to conform with the Zoning setback standard for the LI, Limited Industrial District.
- H. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- I. The Applicant has provided a pipeline easement agreement which appears to indicate a pipeline located on the property. The final plat tracing shall indicate this pipeline easement, in addition to the required 50-ft pipeline setback provided for in the pipeline easement agreements. The recording information for the pipeline easement shall also be denoted on the face of the plat.
- J. County Surveying requests a dimension on the section line adjacent to the east property line.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell has requested additional easements.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

STRAHL, MAPD staff, reviewed staff comments noting that staff was recommending that only one point of access be allowed.

APPLICANT was requesting two points of access.

FORAKER, agent, indicated that two openings currently exist and the applicant would like to retain both of them. He also stated the openings are consistent with current spacing policy.

ESTEP, applicant, explained the two drives are important from an operations and drainage standpoint.

MEHTA, MAPD staff, questioned the claim that the drives are consistent with current standards. Discussion was had regarding various compromise solutions, such as moving the existing driveways further north or south to gain greater separation between the drives, or to move the location of the proposed construction.

WARREN asked which drive would be most acceptable to move.

FORAKER indicated the south drive.

WARNER asked about the traffic volume generated by the site.

CARPENTER, Gary Carpenter, applicant, indicated four transport trucks per day plus smaller vehicle (cars or pick-ups) traffic.

CARPENTER stated the reason they want the two drives is to separate the transport traffic from the smaller vehicles.

KROUT, Marvin Krout, staff, suggested leaving the existing drives in place until such time as a shared drive would be arranged with the property located to the north. Foraker indicated they would prefer not to do that.

MARNELL asked if applicant would agree to a deferral?

FORAKER indicated he would rather not be deferred.

MOTION: To approve subject to staff comments except that the north drive is to remain open until an easement along the south line to accommodate a future

common drive can be obtained. When the easement along the south property line is gotten, then the south driveway is to be closed .

WARREN moved, **ANDERSON** seconded the motion

VOTE ON MOTION: The motion carried (9-0) with (Marnell and Wells in opposition)

2-6. DED2001-00022 – Dedication of a Utility Easement from Timothy and Joyce Wooding, located on the north side of Maple Street, east of Tyler.

CASE NUMBER: DED 2001-00022 -- Dedication of a Utility Easement from Timothy and Joyce Wooding, for property located on the north side of Maple Street, east of Tyler Road.

OWNER/APPLICANT: Timothy and Joyce Wooding, 8406 W. Maple, Wichita, KS 67209-1470 Phone: 773-1515

LEGAL DESCRIPTION: The south 4 feet of the north 20 feet of Lot 32, except the west 159.5 feet thereof, Evergreen Place Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-59, and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

MOTION: That item 2-6 be approved. .

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (11-0)

2-7. DED2001-00023 – Dedication of Access Control from Timothy and Joyce Wooding, located on the north side of Maple Street, east of Tyler.

CASE NUMBER: DED 2001-00023-- Partial Dedication of Access Control from Timothy and Joyce Wooding, for property located on the north side of Maple Street, east of Tyler Road.

OWNER/APPLICANT: Timothy and Joyce Wooding, 8406 W. Maple, Wichita, KS 67209-1470 Phone: 773-1515

LEGAL DESCRIPTION: Part of Lots 20 and 32, Evergreen Place Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-59, and is being dedicated for access control, except for one opening, along Maple Street.

Planning Staff recommends that the Dedication be accepted.

MOTION: That item 2-7 be approved. .

MARNELL moved, **WELLS** seconded the motion, and it carried unanimously (11-0)

2-8. DED2001-00024 – Dedication of Utility Easement from Vickie Taylor, located on the east side of Hillside, south of 31st Street South.

CASE NUMBER: DED 2001-24-- Dedication of a Utility Easement from Vickie Taylor, for property located on the east side of Hillside, south of 31st Street South.

OWNER/APPLICANT: Vickie Taylor, 3355 Clifton, Wichita, KS 67216

LEGAL DESCRIPTION: Part of Lot 6, Block 1, Butler's Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-69, and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

MOTION: That item 2-8 be approved. .

MARNELL moved, **WARREN** seconded the motion

Items 3-1 to 3-5 may be taken in one motion, unless there are questions or comments.

3-1. VAC2001-00020 –Request to Vacate a Platted Setback and part of a Utility Easement, located at the intersection of Peachtree Lane and Woodlawn (6341 Peachtree Lane). (MAPC deferred back to Subdivision Committee on 7/19/01)

LONGNECKER, MAPD staff, reviewed the staff report.

WARREN asked how far this proposed building would encroach into the setback.

LONGNECKER indicated the distance would have to be established exactly, but that the applicant might be able to better respond to the question.

BOB KAPLAN, agent, indicated the building will be at least 6 feet from the property line and could be greater if warranted to protect the trees. He further stated his client is willing to post a bond to guarantee replacement of any trees that might die.

KAPLAN indicated they have done everything they have been asked to do to make this request work, including closing one existing drive on Woodlawn.

WARREN indicated an objection to one property having six garages along one street, especially if the garage requires the vacation of a majority of the setback.

KAPLAN stated that only the applicant knows what will work for the applicant, and the applicant says he cannot use the existing 4 garages because the applicant's vans are too tall.

MCKAY indicated support for Warren's concerns.

MICHAELIS also indicated support for Warren's statement.

MOTION: McKay/Wells motion to defer for 2 weeks to permit the city forester to review the site and make a determination on the distance required to the protect trees if a garage were to be built (11-0).

MCKAY moved, **WELLS** seconded the motion, and it carried unanimously (11-0)

3-2. VAC2001-00034 –Request to Vacate Glendale Street between Blake and Pawnee, located northeast of the Oliver and Blake intersection.

CASE NUMBER: Request to vacate Glendale Avenue between Pawnee Avenue and Blake Street.

APPLICANTS: Clyde & Savilla Williams William C Schlender
Roberta Weatherbee Aurbach Inc.
Michael J Dreiling

AGENT: Ed Quinn

LEGAL DESCRIPTION: Glendale Avenue, between Blake and Pawnee Avenue, more particularly described as beginning at the southeast corner of Block H, McAdams Acres, an addition to Wichita, Sedgwick County, Kansas; thence north along the east line of said Block H, a distance of 285.38 feet; thence east, with an included angle of 89 degrees 42' 30 inches, a distance of 60.00 feet to the northwest corner of Lot 8, Block F, in said McAdams Acres; thence south, with an included angle of 90 degrees 17' 30" and along the west line of Lots 7 & 8, Block F in said McAdams Acres, a distance of 285.36 feet to the southwest corner of said Lot 7; thence west 60.00 feet to the point of beginning.

LOCATION: Generally located north of Pawnee, south of Blake and east of Oliver.

REASON FOR REQUEST: The applicants propose to use for parking and green space.

CURRENT ZONING: Subject property is a public road. Property to the north is zoned TF-3 Two-Family. Property to the east is zoned MF-29 Multifamily and TF-3 Two-Family. Property to the south is zoned LC Limited Commercial and B Multifamily. Property to the west is zoned LC Limited Commercial.

The applicant is requesting consideration to vacate the 60-ft wide portion of Glendale road and its ROW that runs from Blake to Pawnee; north to south a length of 285.36-ft. This section of Glendale is platted/dedicated on the McAdam Acres Plat, recorded 07-5-1951. The section is not developed and has a barrier on the south side of its intersection with Blake. Glendale is not platted to go beyond Pawnee, on its south side. Development abutting this section is an auto repair garage on the northwest side, a single-family residence on the northeast, a duplex on the southeast and a vacant lot on the southwest. This section of Glendale resembles a vacant lot. Development in this subdivision is duplex and single family residences with the exception of the auto repair garage and a tavern off the southeast corner of the Blake – Oliver intersection. Vacation of this section of Glendale would not affect the existing traffic patterns nor would it deny access to and from the neighborhood. Any use/development of the vacated section of Glendale that would revert to the abutting properties would have to meet current City standards, including using it for parking and storage by the auto repair garage. Currently the garage has unpaved parking and no screening between it and the adjacent residential zoning and uses.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 2, 2001, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described portion of Glendale Road and its ROW, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of Glendale Road and its ROW described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to current City Standards.
3. Retain this portion of Glendale Road and its ROW as a utility easement.
4. Guarantee the closure of this portion of Glendale, continuing the curb and gutter.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to current City Standards.
3. Retain this portion of Glendale Road and its ROW as a utility easement.
4. Guarantee the closure of this portion of Glendale, continuing the curb and gutter.

LONGNECKER, MAPD staff, reviewed staff comments.

APPLICANT indicated agreement with staff's recommendations.

MOTION: that item 3-2 be approved. .

HENTZEN moved, **BLAKE** seconded the motion, and it carried unanimously (11-0)

3-3. VAC2001-35 –Request to Vacate Platted 30-Foot Building Setback, located north of 31st Street South and west of Seneca.

CASE NUMBER: Request to vacate platted 30-ft building setback.

APPLICANT/OWNER: USD 259

AGENT: Gossen Livingston Assoc. c/o Ken Arnold

LEGAL DESCRIPTION: The 30-ft building setback on Lot 14 Block F, Gene Douglas Matlock Addition along the 31st Street South frontage and the 30-ft building setback on Lots 6,7,8 & 9, Block F, Gene Douglas Matlock Addition, along the Diane Street frontage.

LOCATION: Generally located northwest of the 31 Street South – Seneca intersection.

REASON FOR REQUEST: The applicant proposes expansion of Kelly Elementary School, USD 259.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north, east, south and west are zoned SF-5 Single Family Residential.

The applicant is requesting consideration to vacate the 30-ft building setbacks along the street frontage of south 31st Street and Diane Street. The 30-ft building setback is referred to in the plat text (Gene Douglas Matlock Addition, recorded 06-11-1953) as "Building Line Notes...Building line to be 30-ft from all frontages", there are no exceptions in the text to this note. The 30-ft building line is shown on all frontages of all lots but Lot 14, which is the apparent source of an existing encroachment. The applicant, USD 259, is proposing expansion of Kelly Elementary School, with a new building going up on the south 31st Street side and a paved parking lot going in on the Diane Street side. There is currently an existing encroachment (building) on the south 31st Street side from a previous expansion of the school. The proposed expansion will line up with this building from the previous expansion. This encroachment is 23-ft into the 30-ft building setback. There is an existing gravel parking lot and ingress /egress on the Diane

Street side that will be paved over. This parking lot and drive encroaches 25-ft into the 30-ft setback. Parking lots are not allowed within front setbacks or any part of a require street side setback in zoning districts RR Rural Residential through MH Manufactured Housing; the applicant's property is zoned SF-5 Single Family Residential. Staff recommends vacating only that part of the setbacks where the proposed development occurs. The applicant will provide the Staff with a survey locating those sections of the setback where the encroachment occurs.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 2, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described building setback lines and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the building setback line described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.
 3. Provide Metes and Bound/Legal description of specific area in the 30-ft setback(s) where the encroachment was pre-existing and will occur as result of proposed expansion.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. Provide Metes and Bound/Legal description of specific area in the 30-ft setback(s) where the encroachment was pre-existing and will occur as result of proposed expansion.

LONGNECKER, MAPD staff, presented staff comments.

JAN BURGESS, Jan Burgess, agent, explained the vacation was necessary because the way the existing buildings have been constructed force the new buildings to encroach in the established setback.

MOTION: That item 2-3 be approved subject to the removal of recommended condition no. 3 and to vacate all areas advertised .

MARNELL moved, **WARREN** seconded the motion, and it carried unanimously (11-0)

3-4. VAC2001-36 –Request to Vacate a Utility Easement, located on the northwest corner of Maize Road and Central Avenue.

CASE NUMBER: Request to vacate utility easements.

APPLICANT/OWNER: KCB, Inc./Tom Boyd SK Holdings /John Broe

AGENT: Baughman Company PA/Russ Ewy

LEGAL DESCRIPTION: That part of the 20 foot utility easement as granted in Reserve "A" , Reserve "B", Lot 2, Block A, and Lot 3, in said Block A, Timber Grove Lakes 2nd Addition, Wichita, Sedgwick County, Kansas described as follows: The south 10.00 feet of said Reserve "A", TOGETHER with the north 10.00 feet of said Reserve "B", TOGETHER with the south 10.00 feet of said Lot 2, except the west 10.00 feet thereof, TOGETHER with the north 10.00 feet of said Lot 3, except the west 10.00 feet thereof, TOGETHER with that part of an utility easement as granted in said Lot 2, described as follows: Commencing at the NW corner of said Lot 2; thence S00deg00'00"E along the west line of said Lot 2, 108.68 feet; thence N90deg00'00"E, 10.00 feet to a deflection point in the east line of said utility easement, and for a point of beginning; thence N16deg08'56"E along the east line of said utility easement, 100.87 feet to a point on the southeast line of a 30 foot utility easement as granted in said Lot 2; thence S58deg21'33"W along the southeast line of said 30 foot utility easement, 32.95 feet to a point 10.00 feet normally distant east of the west line of said Lot 2; thence S00deg00'00"E parallel with the west line of said Lot 2, 79.60 feet to the point of beginning.

LOCATION: Generally located northwest of the Maize Road and Central Avenue intersection.

REASON FOR REQUEST: To allow future development on this site.

CURRENT ZONING: Subject property is zoned LC Limited Commercial. Property to the north is zoned GO General Office. Property to the east is zoned SF-5 Single Family Residential and LC Limited Commercial. Properties to the south and the west is zoned LC Limited Commercial.

The applicant is requesting consideration to vacate a 20-ft utility easement between Lots 2 & 3 and a triangular portion of a utility easement on Lot 2, all In Block A, the Timber Grove Lakes 2nd Addition, recorded August 1994. The applicant is proposing the vacation to accommodate future development of the property. This subdivision is part of CUP DP 134 and any deviation from this CUP will require an amendment or adjustment to it.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 2, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described utility easements and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the utility easements described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. This subdivision is part of CUP DP 134 and any deviation from this CUP will require an amendment or adjustment to it.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards.
3. This subdivision is part of CUP DP 134 and any deviation from this CUP will require an amendment or adjustment to it.

LONGNECKER, MAPD staff, reviewed staff comments.

EWY, Russ Ewy, agent for applicant, indicated acceptance of all recommendations.

MOTION: That item 3-4 be approved. .

COULTER moved, **WELLS** seconded the motion, and it carried unanimously (10-0)

3-5. VAC2001-29 –Request to Vacate a Portion of a Platted 210-Foot Building setback, located southwest of the Hoover and Taft Intersection.

CASE NUMBER: Request to vacate the 210-ft front building setback on Lot 2, West Kellogg Power Center.

APPLICANT/OWNER: BA, LLC/Thomas Boyd

AGENT: Baughman Company PA/Russ Ewy

LEGAL DESCRIPTION: The north 175-ft of the south 210-ft of Lot2, West Kellogg power Center, Wichita, Sedgwick County, Kansas, except the west 200-ft thereof.

LOCATION: Generally located southwest of Hoover St – Taft Av intersection.

REASON FOR REQUEST: The applicant proposes to increase the number of buildings that can be developed on the lot.

CURRENT ZONING: Subject property is LC Limited Commercial and part of CUP DP 221. Property to the north is zoned SF-5 Single family Residential. Property to the east is zoned GC General Commercial. Property to the south is zoned GC General Commercial. Property to the west is zoned LC Limited Commercial.

The applicant is requesting consideration to vacate the 210-ft front building setback on Lot 2, West Kellogg Power Center. The applicant proposes to replace the 210-ft front building setback with a 30-ft setback line. The applicant has applied for an adjustment to CUP DP 221, concurrent with the vacation request, which would allow an increase of the number of buildings allowed on Lot 2 to go from 2 to 4 buildings. A 30-ft setback would allow this expansion of the number of buildings allowed on Lot 2. The parcel to the east (Lot 1, which is part of CUP DP 221) currently has a 35-ft setback. The applicant's request would leave a 5-ft difference between Lot 2's proposed 30-ft setback and Lot 1's 35-ft setback. The applicant noted at the July 12, 2001 SD meeting that the adjustment to CUP DP 221 had been approved.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of

granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 28 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described building setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the setback as described in the petition should be approved subject to the following conditions:
1. Retain the existing easements as shown on plat.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain the existing easements as shown on the plat.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

LONGNECKER, MAPD staff, presented staff comments and indicated that a protest had been filed.

EWY, agent for applicant, asked for an opportunity to respond to any comments made by the protestor, Furniture Row.

GARY SNYDER, agent for applicant, reviewed photos of application area that depicted line of sight to the application area.

TIM MOORE, agent for Furniture Row, explained how customers access his client's property, which is located just east of the application area. Removal of the setback will make it hard to see Furniture Row from Julia, harming his client's business.

MOORE wanted the 210- foot setback retained since Kellogg improvements have made retention of existing setback important to Furniture Row.

EWY indicated this site was originally to be developed with "big box" users needing the larger setback, but only half of the site developed with "big box" users. The proposed buildings are expected to be small relative to Furniture Row's building and they will do little to make it harder to find Furniture Row.

KROUT, staff, asked if Furniture Row has a pole sign. (Did not get the answer)

MOTION: That item 3-5 be approved. .

COULTER moved, **WELLS** seconded the motion, and it carried unanimously (11-0)

4. **Case No.: CON2001-41** - Conditional Use 130-ft wireless mono-pole tower. General location Herman Hill Park (South Police Substation). South of Pawnee and West of Broadway.

That part of the Northeast Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County,

Kansas described as commencing at the Northeast corner thereof; thence south 90 degrees West, along the North line of said NE/4, 135 feet; thence South 00 degrees West, 282.90 feet for place of beginning; Thence South 36 degrees 35'54" East, 36.51 feet; thence South 25 Degrees 50'37" West, 60.35 feet; thence North 20 degrees 48'31" West, 44.51 feet; thence North 25 degrees 50'37" East, 24.13'; thence North 36 degrees 35'54" West, 10.44 feet; thence North 53 degrees 24'06" East, 20 feet to the place of beginning.

APPLICANT/AGENT: City of Wichita (Owner); Nordyke Ventures, LLC c/o Mark Nordyke and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "TF-3" Two-Family Residential

SITE SIZE: 3,600 square feet

LOCATION: South of Pawnee and west of Broadway

PROPOSED USE: 150-foot high monopole tower

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached Elevation) by Nordyke Ventures, LLC for use by Cricket Communications, Inc. The applicant has provided a list of reasons (see attached letter) why they feel their request conforms to the review criteria for a Conditional Use. The proposed site is zoned "TF-3" Two-Family Residential. Wireless Communication Facilities over 65 feet in height in the "TF-3" Two-Family Residential zoning district may be permitted with a Conditional Use.

The proposed monopole tower would be sited on an approximately 3,600 square foot area located south of Pawnee and west of Broadway in Herman Hill Park, south of the police substation (see attached site plan). The site plan shows a compound enclosed with an eight-foot high wood fence with the tower located in the center of the compound and the ground-level communication equipment located in the eastern portion of the compound. The site plan shows that access would be provided to the site through a 20-foot drive to a paved street in Herman Hill Park. Existing trees within the compound are proposed to be removed, and the site plan shows four six-to eight-foot scotch pines to be planted on the west side of the compound.

The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. (see attached RF Engineering Evaluation and propagation plots). The justification (see attached letter) for the request indicates that an existing monopole tower located approximately 1/3 mile to the southeast does not provide sufficient height. The justification also indicates that reconstructing the existing monopole would cost more than constructing a new tower.

The applicant indicates that the 80-foot level on the existing tower is available to locate antennas for Cricket; however, if Cricket locates their antennas at a height of 80 feet, another tower will be required further to west. In reviewing Cricket's system, planning staff thinks that another tower likely will be required further to the west in the vicinity of Pawnee and Meridian even if the requested 130-foot high tower is constructed at Pawnee and Broadway. Based on this, planning staff requested that the applicant defer the request to allow time to examine the possibility of locating at the 80-foot level on the existing tower at Pawnee and St. Francis in combination with constructing a new tower near Pawnee and Meridian in an existing industrial area. At the time the staff report was prepared, the applicant would not agree to the deferral, and planning staff had yet to meet with the applicant to discuss this option.

Another applicant submitted a Conditional Use request (CON2001-00039) for a 150-foot high monopole tower to be located approximately 1/3 mile to the southeast along St. Francis for the purpose of supporting a planned initial build-out of a wireless phone system by Cricket Communications, Inc.; therefore, planning staff contacted both applicants and requested documentation from Cricket that they would be locating on the respective towers. The applicant in this case provided an e-mail (attached) from the Site Acquisition Development Manager for Cricket indicating that Cricket would be locating on the tower if it is approved. Planning staff contacted Cricket to confirm this, and Cricket indicated

that they intend to locate on the tower near Pawnee and Broadway rather than the St. Francis site and would attend the public hearings to state their position on this issue.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" & "B"	Vehicle sales; residential
SOUTH:	"GC"	Vehicle sales
EAST:	"GC"	Retail; restaurant
WEST:	"TF-3"	Herman Hill Park

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through a 20-foot drive to a paved street in Herman Hill Park.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used at an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of

FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.

- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "TF-3" Two-Family Residential and is currently used as part of Herman Hill Park. Wireless communication facilities in excess of 65 feet in height in the "TF-3" district may be permitted with Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping surrounding the site would only partially obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used at an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request.
5. Impact of the proposed development on community facilities: Access to the site is proposed to be through a 20-foot drive to a paved street in Herman Hill Park, so no negative impacts on community facilities are anticipated.

KNEBEL, MAPD staff, indicated this case had been heard at the last meeting and a clarification of the intent of the commission's motion was needed.

FERRIS, agent, indicated comfort with the existing language, assuming it meant they could build a shorter tower than 150 feet.

ANDERSON stated he thought a tower up to 150 feet is what was meant.

WELLS asked if a minimum tower height was needed?

FERRIS said he could agree to a minimum height.

MICHAELIS asked if there was a consensus among commissioners to require a 150-foot tower even though there is only a user at 130 feet?

MARNELL questioned the wisdom of granting a height taller than was being asked since the code requires unused height to be removed if left unused after a specified time.

WARREN said what he thought they meant was the tower was not to exceed 150 feet, but that the 25% extension applied only to the 130 foot height.

KROUT indicated staff could work with the applicant to get a Conditional Use resolution that is consistent with that position.

(MAPC approved 8-9-01 applicant request clarification of a condition of approval)

No vote only staff recommendations (tape 779/side 2/tape1)

5. **Case No.: ZON2001-00046** - Amendment to P-O #14 (Z-3221) to waive requirement for masonry screening wall. Generally located east of the intersection of Hillside and Ross Parkway (2853 S. Hillside).

Lot 1, Precision Metalcraft Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant requests an amendment to Protective Overlay (PO) #14 which would waive the requirement for a masonry-screening wall. The PO, requiring the masonry-screen wall, was created as a part of a zone change (Z-3221) from "SF-6" Single Family and "LC" Limited Commercial zoning to "LI" Limited Industrial zoning.

The application area is located on the east side of S. Hillside, just east of the S. Hillside and Ross Parkway intersection. The 2.2-acre site is occupied by Precision Metalcraft, an aircraft part manufacturer. The application area is bounded to the north by property zoned "LC" Limited Commercial, and "SF-5" Single Family, the land uses to the north are a single-family residence and a bakery. The application area is bounded to the south by property zoned "LC" Limited Commercial, and "SF-5" Single Family; the land uses to the south are vehicle repair, and single-family residences. The application area is bounded to the west by a heavily vegetated drainage way, and the Joyland Amusement Park; the property to the west of the application area is zoned "SF-5."

The application area was rezoned in 1997 from "LC" and "SF-6" to "LI," the zone change case is Z-3221. At the time of the zone change, only the east 300 feet of the application area property was developed. The zone change request was approved subject to protective overlay restrictions (PO #14) which state:

1. The uses allowed on the portion of the property west of the east 300 feet shall be limited to machine shop, warehouse, and accessory parking. All other uses permitted in the "LI" district are allowed on the east 300 feet of the property.
2. There shall be no delivery service allowed on the portion of the property west of the east 300 feet between the hours of 11:00 PM and 6:00 AM.
3. The required screening, where adjacent to residential zoning, shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height.

Research into the 1997 zone change at this location indicates that the masonry screen wall portion of the PO, which the applicant agreed to at that time, is a direct response to noise concerns by the residential neighbors, specifically the residential neighbors to the south of the application area. The existing PO, PO #14, states that the masonry wall requirement, where adjacent to residential zoning, shall be constructed when the western portion of the property is developed. The western portion of the property is now being developed, and the applicant is now requesting to amend the PO, to waive the masonry screen wall requirement.

CASE HISTORY: The application area was rezoned from "SF-6" and "LC" to "LI" on April 1, 1997, under the restrictions of PO #14.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC," "SF-5"	Residence, bakery
SOUTH:	"LC," "SF-5"	Vehicle repair, residences
EAST:	"LC," "SF-5"	Vehicle repair, residences
WEST:	"SF-5"	Drainage way, Joyland Amusement Park

PUBLIC SERVICES: The property is located along S. Hillside, a four-lane arterial street. The property currently has a 20-foot utility easement running north to south, through the middle of the property.

Public water and sewer services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita and Sedgwick County Unified Zoning Code (April 19, 2001) requires screening on all properties (except those developed with single or two-family residences) adjoining

residential zoning districts, except when separated by a major barrier. This screening can be accomplished by fencing, evergreen vegetation, or landscaped earth berms. Screen fencing construction standards require standard wall/fencing materials, such as brick, stone, concrete masonry, stucco, concrete, or wood.

RECOMMENDATION: The masonry screen wall requirement in PO #14, which the applicant agreed to at the time of the 1997 zone change, was in response to residential neighbor noise concerns. The masonry screen wall requirement was intended to mitigate noise from an industrial use, this was a zone change request from residential to industrial zoning. To now relax the masonry wall requirement, where the application area abuts residential neighbors, would demonstrate a lack of commitment by the city and the applicant to the residential neighbors in this case. However, planning staff feels that the PO could be better tailored to mitigate the industrial use and to not create an undue burden on the applicant. For this reason, and based upon information available prior to public hearings, planning staff recommends that PO #14 item 3 be amended to read:

“Screening shall be in accordance with the Unified Zoning Code, except where adjacent to residential uses along the south property line. Screening adjacent to residential uses along the south property line shall be constructed at the time the portion of the property west of the east 300 feet is developed, and shall be a solid masonry wall at least 6 feet in height.”

This amendment would have the effect of keeping the masonry screen wall commitment with the residential neighbors, without the burden of providing a masonry screen wall where no residential use exists. This amendment would require the applicant to place a masonry screen wall only on that part of his southern boundary where residential uses exist.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The western portion of the applicant's southern boundary adjoins residential zoning with residential uses, the proposed amendment would have the effect of mitigating industrial use on the residential neighborhood, protecting the residential neighborhood's character.
2. The suitability of the subject property for the uses to which it has been restricted: The application area has operated in an acceptable manner as an industrial use, the effects of the expansion of that industrial use will be mitigated by the proposed amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Removal of the masonry wall requirement where the application area adjoins a drainage way, amusement park, and bakery will not have a detrimental affect on those properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested amendment to PO #14, as recommended by staff, exceeds existing screening requirements, thereby further mitigating the effects of industrial uses on a residential neighborhood.
5. Impact of the proposed development on community facilities: The proposed amendment will have no impact on community facilities.

JOHNSON declared a conflict of interest and stepped away from the bench.

MCNEELY, MAPD staff, reviewed the staff report and showed slides.

STAFF was supportive of waiving the masonry wall except along the south where residential uses are present. **ROBIN ROBERTS**, applicant, indicated a wooden fence and a tree row exist and they are an effective screen, resulting in the request to waive the requirement for a masonry wall.

Warren's findings for the motion cited a lack of neighborhood opposition and the requirement for a masonry wall in this situation is a unique requirement. Anderson left the meeting.

MOTION: To waive the masonry wall requirement as requested by the applicant.

WARREN moved, **BLAKE** seconded the motion, and it carried unanimously (10-0-1)
JOHNSON abstaining from vote.

Anderson out at 3:57p,m

6. **Case No.: ZON2001-47** - Zone change from SF-5 to NR and GO. Generally located 1/2 mile north of 21st Street North and east of Maize Road.

SF-5 to NR. THE EAST 220.00 FEET OF THE WEST 280.00 FEET OF THE FOLLOWING DESCRIBED TRACT:
BEGINNING AT THE NORTHWEST

BACKGROUND: The application area consists of a 3-acre, unplatted parcel on the east side of Maize Road, ½ mile north of 21st Street North. The undeveloped property is currently zoned "SF-5" Single Family. The owner/applicant also owns the abutting "SF-5" zoned parcel to the east. The applicant is requesting "NR" Neighborhood Retail on the western 1.45 acres of the application area, and "GO" General Office on the eastern 1.55 acres of the application area. Please see the attached site plan.

The application area abuts "SF-5" zoned property to the north, east, and south. Across Maize Road and to the west of the application area is the New Market Square CUP, New Market is developed on property zoned "LC" Limited Commercial, and "GO" General Office. To the north of the application area sits the Cadillac Lake floodplain area.

The proposed zone change, from "SF-5" to "NR" and "GO," would require platting, and conformance to all property development standards in the Unified Zoning Code, including compatibility setbacks, screening and landscaping. As the application area sits just south of a floodplain area, drainage would have to be addressed at the time of platting.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single family residence
SOUTH:	"SF-5"	Single family residences
EAST:	"SF-5"	Single family residences
WEST:	"LC," "GO"	New Market Square CUP

PUBLIC SERVICES: The application area is located along Maize Road, a five-lane arterial street. A pedestrian/bicycle trail parallels Maize Road on the west side of the application area. The traffic count in March of 2001 along this section of Maize Road was 10,679 cars per day (ADTs). The projected traffic volume for 2030 is 14,192 cars per day. No street projects are included in the C.I.P. The undeveloped property currently has no vehicular access. The existing half-width right-of-way for Maize Road is 60 feet.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as "low density residential." The "Wichita Land Use Guide" identifies the area just south and east of the application area as "low density residential," the area to the west as "commercial," and the area just north of the application area, the Cadillac Lake flood-plain area, as "parkland/open space."

"Office Locational Guidelines" of the Comprehensive Plan include (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses.

"Commercial Locational Guidelines" of the Comprehensive Plan include (1) located adjacent to arterial streets that provide needed ingress and egress in order to avoid traffic congestion, (2) required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses, and (3) in clusters or nodes at arterial intersections versus extended strip developments.

RECOMMENDATION: The Comprehensive Plan suggests that office uses should be incorporated within or adjacent to retail commercial developments at arterial intersections. This location, separated from the commercial intersection by single-family zoning and single-family use, will not promote the Plan's concept of mixed-use activity centers where higher traffic-generating uses are clustered so they are more conducive to pedestrian activity and transit service. The

application area is at a mid-mile location, the proposed access is too close to the residential collector street to the south for good traffic management. This proposal would create a dead end street, terminating with a residential cul-de-sac (see the attached site plan). This proposal could be considered more favorably if located at an arterial and collector intersection, not on a dead end residential street.

This commercial proposal would not serve as transitional zoning, from higher to lower intensity land uses, as suggested by the Comprehensive Plan, it would simply separate the existing Single-Family zones to the north and south of the application area. Adequate commercial and office zoning exists in the immediate vicinity with the New Market Square CUP across Maize from the application area; likewise, the application area could be developed as zoned with single family residences.

Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However, if the MAPC is favorably disposed toward rezoning, then we recommend that the three-acre site be limited to the "NO" Neighborhood Office zone classification.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area to the north, east, and south are all zoned "SF-5." The proposed development creates a dead-end street to be shared by commercial and residential uses. The proposed zone change, and therefore office and retail development, is not consistent in character or use with the surrounding residential neighborhood uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is best suited for single-family residences, and could be developed with single-family residences, or other uses permitted in the "SF-5" district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A change to office and retail zoning would impact the surrounding residences with increased traffic, increased turning movement conflicts on Maize Road, and a change in neighborhood character.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Comprehensive Plan "Wichita Land Use Guide," and not in conformance with the office and commercial locational guidelines of the plan.
5. Impact of the proposed development on community facilities: A zone change at this mid-block location on Maize Road, onto a dead end street, would increase turning movement conflicts at the mid-block location, and would potentially increase accidents at that location.

MCNEELY, MAPD staff, reviewed the staff report. Gary Wiley, agent for the applicant, indicated the applicants are long time developers and do a good job. Maize road already has a high traffic count making the application area less desirable for residential use. New Market Square, located to the west, is the third largest retail tract in the city.

The applicant has an agreement with the property owner to the north to take drainage from the application area to the north.

WARREN asked if there was a pond on the site. Wiley indicated it was being filled.

MARNELL wondered if the location of the commercial uses and the road could be switched.

WILEY responded that he thought the neighbors would rather have the road as a buffer instead of a building.

BRUCE HARDING, neighbor in opposition, did not like the idea of general office uses and wondered if it was realistic to expect residential uses to the rear of the site. They have a drainage problem today and this project will make it worse.

JEFF ENGLER, neighbor in opposition, was concerned with drainage. He was also concerned with increased density of housing.

WARREN asked if Engler would prefer more nonresidential uses.

ENGLER indicated he would.

SARA ELLINGER DUKES expressed concern over increased density of housing and flooding.

GARY WILEY indicated they would build a masonry wall and would work to improve drainage.

WARREN asked where “NR” and “GO” zoning would begin and stop.

WILEY indicated the west half of the application area would be split into two equal areas.

MOTION: Warren/Hentzen motion to approve as requested with the additional requirement of a masonry screening fence along the south line of the property plus placing landscaping between the road and the neighbors to the south (10-0).

MARNELL asked why they did not ask for “NO” instead of “GO.” Wiley responded that “GO” allows a bank without a Conditional Use while “NR” does not.

WARREN moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0)

7. **Case No.: CON2001-45** - Conditional Use to permit a 250-foot high guyed lattice tower. Generally located east of 215th Street West and north of 95th Street South (9240 S. 215th Street West).

A 150 foot by 150 foot Lease Area long with a 20 foot wide Access and Utility Easement, situated in the Southwest Quarter of Section 18, Township 29, Range 2, Sedgwick County, Kansas, being more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of said Section 18; thence South 89 degrees 58 feet 47 inches East along the South line of said Quarter Section, a distance of 337.45 feet; thence North 00 degrees 00 feet 00 inches West, a distance of 930.36 feet to the POINT OF BEGINNING of said 150 foot by 150 foot Lease Area; thence North 00 degrees 00 feet 00 inches West, a distance of 75.00 feet to a point hereafter referred to as Point "A"; thence continuing North 00 degrees 00 feet 00 inches West a distance of 75.00 feet; thence North 90 degrees 00 feet 00 inches East a distance of 150.00 feet; thence South 00 degrees 00 feet 00 inches East; a distance of 150.00 feet; thence South 90 degrees 00 feet 00 inches West a distance of 150.00 feet to the POINT OF BEGINNING. Containing 22,500 square feet, more or less.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 250-foot high guyed lattice tower (see attached “Elevation View”) by American Tower Corporation. American Tower Corporation indicates that the tower is being constructed, at least initially, for Verizon Wireless. The proposed site is zoned “RR” Rural Residential. Wireless Communication Facilities over 65 feet in height in the “RR” Rural Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned “RR” Rural Residential and are used for agricultural purposes. The nearest properties developed non-agricultural uses are single-family residences on 2-7.5 acre lots located approximately $\frac{3}{4}$ mile north of the site near K-42 and 215th Street West.

The proposed tower would be sited on a 22,500 square foot area located north of 95th Street South and east of 215th Street West within a 45 acre pasture and agricultural home site bordered on all sides by a hedge row. Access to the site is proposed to be via a 20-foot wide access and utility easement to 215th Street West. The applicant’s site plan (see attached “Enlarged Site Plan”) depicts a 150-foot by 150-foot lease area with a 100-foot by 100-foot fenced compound with the tower located in the center of the compound. The site plan also shows the guy wires for the tower to be anchored to the ground in the pasture outside the lease area. The site plan does not indicate the specific location of ground-level equipment within the compound. The compound and the guy wire anchors are to be enclosed by six-foot high chain link fencing with three strands of barded wire on top.

The application indicates that the proposed wireless communication facility is needed for Verizon Wireless to expand the coverage area of its wireless phone system along the K-42 highway corridor (see attached letter dated August 6, 2001 and “Existing” and “Proposed” propagation plots). Verizon Wireless indicates that it needs to mount its antennas at a height of 150 feet; however, American Tower has requested to construct a 250-foot high tower, which is contrary to the Unified Zoning Code’s requirement to remove unused portions of towers.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site will have access to 215th Street West, an unpaved section line road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that two elements of the request do not conform to the guidelines of the Wireless Communication Master Plan. First, the request does not minimize the height, mass, and proportion of the facility since a 250-foot high tower is requested when only a 150-foot high tower is needed. Second, the request does not minimize the silhouette of the facility since a guyed lattice tower is requested rather than a monopole. Therefore, planning staff is recommending conditions of approval that bring the request into conformance with the guidelines of the Wireless Communication Master Plan. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of at least 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of

the Conditional Use by the MAPC or governing body, as applicable.

- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest properties developed non-agricultural uses are single-family residences on 2-7.5 acre lots located approximately ¾ mile north of the site near K-42 and 215th Street West. The proposed wireless communication facility is consistent with the agriculture character and uses of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is used as pastureland. Wireless communication facilities in excess of 65 feet in height in the "RR" Rural Residential zoning district may be permitted as a Conditional Use, which should be subject to conditions of approval that maintain conformance with the Location/Design Guidelines of the Wireless Communication Master Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest properties that are developed with residential uses are single-family residences located approximately ¾ mile to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the recommended conditions of approval should reduce the visual impact of the tower in two ways. First, reducing the height of the tower to 150 feet will bring the tower below the FAA's 200-foot threshold where aircraft warning lighting and painting the tower red and white are required. Second, requiring a monopole will minimize silhouette of the tower, thus making the tower less visually intrusive.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. With the recommended conditions of approval, the proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan. The recommended height of 150 feet rather than the requested 250 feet minimizes the height, mass, proportion of the facility and allows the facility to utilize an unobtrusive color with a matte finish to minimize glare rather than a red and white paint scheme with aircraft warning lighting. The recommended monopole rather than the requested guyed lattice tower minimizes the silhouette of the facility. The facility is proposed to be placed in an area where trees obscure some of the facility from view from nearby properties. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

KNEBEL, MAPD staff, presented the staff report. Ron Jones, agent, indicated the 250 foot height was requested in order to enhance co-location opportunity and the applicant views this location as a corridor site. American Tower prefers to put 4-5 vendors on a single tower, which will take some time to achieve.

APPLICANT indicated they could live with a 160-foot tower plus the right to extend the tower by 25%.

MOTION: to approve a monopole 160 feet with the ability to increase tower height by 25% (10-0).

HENTZEN moved, **WARREN** seconded the motion, and it carried unanimously (10-0)

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- 8a. **Case No.: ZON2001-48** - Brad Saville for BKS, LLC (owner); Kaplan, McMillan and Harris c/o Robert W. Kaplan (agent) request zone change from "NR" Neighborhood Retail to "LC" Limited Commercial ; and
- 8b. **Case No.: CUP2001-31 DP184 #4** – Brad Saville for BKS, LLC (owner); Kaplan, McMillan and Harris c/o Robert W. Kaplan (agent) request an amendment to DP 184 Pearson Farms C.U.P. Amendment #4 for commercial uses and to adjust signage and architectural controls on property described as:

ZON2001-00048

All of Lot 1, Pearson Farms 3rd Addition, Wichita, Sedgwick County, Kansas EXCEPT that part described as follows:

Commencing at the Northerly most corner of Lot 1, Pearson Farms 3rd Addition, Wichita, Sedgwick County, Kansas, thence South 01 degrees 21'21" West, 327.63 feet to a corner of said Lot 1, for the point of beginning; thence continuing South 01 degrees 21'21" West, 268 feet to a point on the South line of said Lot 1; thence North 88 degrees 28'51" East, 200.25 feet to the Southeast corner of said Lot 1; thence North 01degrees 21'21" East along the East line of said Lot 1 a distance of 257.96 feet to the Southern most Northeast corner of said Lot 1, thence North 88 degrees 38'39" West, 200 feet to the point of beginning.

CUP2001-00031 DP184 #4

AND the owners of the following described lots (CUP):

Lots 1, 2, 3, 4 & 5, Pearson Farms 3rd Addition, Wichita, Sedgwick County, Kansas
Lot 3, Pearson Farms 2nd Addition, Wichita, Sedgwick County, Kansas
Lot 2, Pearson Farm Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is proposing to amend DP-184 Pearson Farms Community Unit Plan and rezone Parcel 1 from "NR" Neighborhood Retail to "LC" Limited Commercial. The amendment would permit a large-item furniture store. Other requested changes are: increasing signage from 75 square feet to 150 square feet, allowing a moving sign, and allowing metal as an exterior material on the sides and rear elevations.

Proposed uses are: neighborhood shopping center uses including furniture stores, restaurants, retail shops, offices, medical and dental clinics, pharmacies, dry cleaning, laundry, barber and beauty shops, tailors, hardware, small animal clinics, grocery stores, fitness centers, and other similar shopping center uses.

Other provisions of the C.U.P. would remain the same.

Parcel 1 was zoned "NR" Neighborhood Retail in order to decrease the intensity and scale of potential commercial uses adjacent to the Timber Ridge Addition. The parcel configuration has a relatively short frontage on 21st Street North of 163 feet, compared with its depth of nearly 600 feet. This makes the lot difficult to use for smaller scale retail shops unless they would be oriented to the east with the rear service areas of the shops backing onto Timber Ridge Addition. The applicant is seeking to utilize the lot by placing a relatively narrow building facing onto 21st Street.

Retail uses are located east of the property and to the north of 21st Street. The closest use is Denning's Greenhouse, bordered by U-Stor and a new strip center under development. Significant retail expansion is underway to the north of 21st Street as the planned development for NewMarket Square. Emprise Bank is adding a new facility along 21st and two other parcels remain vacant. Wal-Mart is under construction to the north, followed by the shops at NewMarket Square. Westlink Christian Church is constructing new facilities on the property to the south of the application area. The property to the west is developed as Timber Ridge Addition with single-family residences.

CASE HISTORY: The property is platted as Pearson Farms 3rd Addition. DP-184 was originally approved on April 26, 1988. Amendment #1 approved was October 13, 1992 and allowed the warehouse, self-service storage use on Parcel 3. Amendment #2 was approved on October 31, 1996 and increased building coverage and signage on Parcel 3. Amendment #4 was denied by MAPC on May 29, 1997, and was a request to allow landscaping rather than a masonry wall on the south property line of Parcel 7, the Acrobatics Academy.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"; "SF-5"	NewMarket Square (bank, vacant out parcels, Wal-Mart); Northwest Christian Church
EAST: "LC"	Denning's Greenhouse; U-Stor, strip center
SOUTH: "SF-5"	Westlink Christian Church under development
WEST: "SF-5"	Single-family residences

PUBLIC SERVICES: Transportation access is via 21st Street North, a six-lane arterial street. Parcel 1 is allowed one point of access and the applicant proposes to align it with a drive on the north side of 21st Street North. Existing traffic counts for eastbound traffic on 21st Street North is 11,744; projected to increase to 15,000 ADTs by 2030.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the subject parcel for "office" use and the remainder of DP-184 as "commercial". The office designation of this parcel conforms to the Office Locational Guideline #4, "Low-density office use can serve as a transitional land use between residential uses and higher intensity uses." Large-item retail would fall in the "commercial" designation and conform to the other uses in DP-184, but its placement on Parcel 1 would remove the transitional land use function for the residential development to the west.

Current zoning of the parcel, "NR" Neighborhood Retail already allows retail uses, just not at the scale of the proposed rezoning.

RECOMMENDATION: Commercial Locational Guideline #3 states "Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surround residential uses." This guideline would indicate the direction any change from "NR" to "LC" should follow for this parcel positioned on the edge of commercial/residential use.

The proposed amendment has requested "LC" primarily to allow a large furniture store (approximately 24,000 square feet). While the size of the building significantly larger than permitted in "NR" (8,000 for a single user), the placement of a single building better utilizes the narrow configuration of the lot and allows the building to be placed farther from the property line of the adjacent residential neighborhood.

Timber Ridge Addition has a drainage reserve abutting Parcel 1. This separates the residential lots better than if Parcel 1 was adjoining the residential lots. The developer of Parcel 1 will be required to provide landscaping along the western edge of the parcel, as well as a masonry screening wall.

The requested use of metal on the west elevation adjacent to the residential development appears contrary to the spirit of transitioning with appropriate materials and also is contrary to the architectural requirements of the remainder of the C.U.P. that states "Metal shall not be permitted as a predominant exterior building material for any building on the site."

This is the requirement that has been in force for the rest of Pearson Farms. The applicant has indicated that the type of metal that is proposed is not the typical flat metal, but is a textured steel that appears more like the E.I.F.S. exterior of the front and the portions of the sides of the buildings nearest 21st Street. The proposed color is an earth-tone. Staff recommends the restriction on the use of metal as a predominant exterior building material be retained.

Signage is also a feature often used to successfully transition from commercial to residential use. The applicant initially requested signage be increased from 75 feet to 150 feet; but has indicated that 100 square feet would be sufficient. This is more acceptable. The applicant has also requested lifting the restrictions on flashing, rotating and moving signs, signs with flashing lights or signs that create the illusion of movement for Parcel 1. This is contrary to the restriction on the remainder of the C.U.P. and contrary to effective transition to residential character. Staff recommends the restriction on flashing, rotating and moving signs be retained. The existing CUP limits sign height to 18 feet and should be retained.

Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Permitted uses are: neighborhood shopping center uses including furniture stores, restaurants other than freestanding restaurants with drive-in or drive-through facilities, retail shops, offices, medical and dental clinics, pharmacies, dry cleaning, laundry, barber and beauty shops, tailors, hardware, small

animal clinics, grocery stores, fitness centers, and other similar shopping center uses. No Conditional Uses in the "LC" Limited Commercial zoning district shall be permitted without first amending the C.U.P. The following uses shall be prohibited: correctional placement residences; convenience stores; hotel or motel; marine facility, recreational; night club; pawnshop; recreation and entertainment, indoor; secondhand store; tavern and drinking establishment; vehicle repair, limited; and vocational school.

2. General Provision 6A shall be revised to allow one ground or pole sign not to exceed 100 square feet in size.
3. Landscaping along the west property line shall be at 1 ½ times the requirements of the Landscape Ordinance.
4. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning is residential ("SF-5") to the west and south. A single-family residential subdivision is adjacent on the west; a church is located to the northwest and a large church campus is being developed to the south. The property to the east and north is zoned "LC" and used for commercial purposes. A bank is being constructed on an out parcel immediately to the north of the application area. Wal-Mart and NewMarket Square are located further north. To the east, the properties are developed with a variety of commercial uses, including a greenhouse, self-service storage, medical office, strip center and a bank.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for the types of uses allowed in the "NR" Neighborhood Retail district. The lot configuration makes it more difficult to arrange a grouping of small retail spaces as required in the "NR" zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The increase in sign size might have a negative impact on the adjacent residential area. The impact of a large retail structure on Parcel 1 should be mitigated by the drainage reserve in Timber Ridge, the masonry wall, and the substantial landscaping buffer.
4. Length of time the property has remained vacant as zoned: The property has been vacant for 13 years.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the "commercial" designation on *Comprehensive Plan* for the rest of DP-184 Pearson Farms, but not with the parcel itself, which is shown as "office" in order to transition to the adjacent residential areas.
6. Impact of the proposed development on community facilities: The proposed changes should not impact traffic. A furniture store would be anticipated to generate less traffic than if it were developed with a variety of small-scale retail users. The site has only one opening onto 21st, shown on the western edge of the tract to align with the drive on the rear of the NewMarket Square development.

GOLTRY, MAPD staff, presented staff comments and presented slides.

GOLTRY indicated the following items are issues that need to be addressed: inclusion of a prohibition on “service stations” as an allowed use; the size of signage permitted – the applicant wants 107 square feet; permission to use an electronic message reader board; use of a textured steel metal exterior and waiver of the requirement for cross lot circulation between the application area and the property to the east as long as the parcel to the east is used for a greenhouse.

KAPLAN , agent for applicant, indicated key issues to be resolved were architectural and signage. They need 107 square feet of sign face.

KAPLAN was of the opinion that when this CUP was written, it did not anticipate electronic signage, which they propose to use.

APPLICANT wants the exterior of his building to be a combination textured metal and stucco.

KAPLAN stated the neighbor’s current view is of a greenhouse; his development will provide a better view than the greenhouse. Kaplan also asked the Commission to delete a current CUP requirement that steel is not to be a dominate exterior material.

RANDY HILL, neighbor, was opposed to a metal building and electronic sign. He indicated he represents the homeowners association.

JIM DENNING, Denning Greenhouse, indicated he has siding on part of his buildings; and the self-storage facility located to his east was required to use stucco on the exterior. He agreed with the zone change, but the proposed sign would be too large and a flashing sign would detract from the character of the area. A metal building would not be consistent with existing development.

PATRICIA CURTIS, neighbor, indicated all of the west side of the proposed building needs to be stucco since that is what the neighbors will see. She would like an 8-foot tall screening wall instead of six. She was not opposed to “LC” zoning, but would like clarification on what is meant by a “second-hand store.” She would like the drive to be placed on the east side of the parcel instead of the west where it would be closer to the residences.

KAPLAN stated his client would stucco the building on the north, east and west sides, and they do not sell used furniture.

MCKAY asked about landscaping, indicating he wanting trees to be planted that are equal to the height of the screening wall.

MOTION: To approve subject to staff comments plus the changes discussed here - stucco only on the north, east and west side of building; 107 square feet of signage as measured around perimeter of the sign face; use of an electronic reader board is to be permitted per the Office of Central Inspection’s interpretation on the rate of message change; trees planted along the west property line are to be equal to the height of the screening wall; waiver of cross lot circulation with the property to the east as long as the property is used for a greenhouse and a prohibition against service stations on this parcel.

MCKAY moved, **MARNELL** seconded the motion, and it carried unanimously (11-0)

Meeting adjourned at 5:20 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area

Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission